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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,384	01/05/2004	David John Targell	NGP0039	2667

832 7590 08/25/2005

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EXAMINER

STIGELL, THEODORE J

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary	Application No. 10/751,384	Applicant(s) TARGELL, DAVID JOHN	
	Examiner Theodore J. Stigell	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Objections

Claim 16 is objected to because of the following informalities: There is no antecedent basis for "said stop" in claim 12. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Asbaghi (5,688,241).

Asbaghi clearly shows an accessory device for use with a medical apparatus that includes all of the limitations as recited in claims 1-5. Asbaghi shows an elongated body (20), a needle (14), a sleeve (26) surrounding said needle, the sleeve being movably associated with the outer body and having three positions, the first position with the majority of the needle covered, the second with the needle exposed, and the third with the needle completely covered by the sleeve in a locked position, the outer body including tracks (32) and the sleeve including flexible stop members (36) and (52) guided by the tracks, the sleeve automatically movable from the first position to the third position where stop members (52) automatically lock sleeve in position.

In regards to claim 6, Asbaghi discloses a device as recited in claim 2 wherein the flexible members include projections which are defined as the top portion of elements (36) that interact with the tracks (32).

In regards to claim 7, Asbaghi discloses a device as recited in claim 1 wherein the track includes a first portion (62) and a second portion (66).

In regards to claims 8-11, Asbaghi discloses a device as recited in claim 1 wherein the body includes a stop defined as the inner surface of the collar (42), the flexible members can move radially inward and outward if pressure is applied, and a spring (54) is included to bias the sleeve in the first position.

In regards to claim 12-13, Asbaghi discloses a device that includes all of the limitation recited. Asbaghi shows an elongated body (20), a needle (14), a sleeve (26) surrounding said needle, the sleeve being movably associated with the outer body and having three positions, the first position with the majority of the needle covered, the second with the needle exposed, and the third with the needle completely covered by the sleeve in a locked position, the outer body including tracks (32) and the sleeve including flexible fingers (36) and (52) guided by the tracks, the sleeve automatically movable from the first position upon insertion into the patient to the third position where flexible fingers (52) automatically lock sleeve in position upon withdrawal of the needle from the patient.

In regards to claims 14-15, Asbaghi discloses a device as recited in claim 12 wherein the flexible fingers (36) include projections defined as the top portion of the

finger that interacts with the track, and the tracks include a first portion (62) and a second portion (66).

In regards to claims 16-19, Asbaghi discloses a device as recited in claim 12 wherein the body includes a stop defined as the inner surface of the collar (42), the flexible fingers can move radially inward and outward if pressure is applied, and a spring (54) is included to bias the sleeve in the first position.

Response to Arguments

Applicant's arguments, see pages 1-2, filed 7/29/2005, with respect to the rejection(s) of claim(s) 1-19 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Asbaghi (5,688,241).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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